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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,032	09/20/2001	Alan J. Lang	D-2821CON	6533

7590

07/14/2003

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EXAMINER

CHATTOPADHYAY, URMI

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary

Application No.

09/960,032

Applicant(s)

LANG, ALAN J.

Examiner

Urmi Chattopadhyay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The After-Final Amendment filed 6/17/03 has been entered as Paper No. 8. Changes to the specification and claims have been approved by the Examiner. The terminal disclaimer filed 6/17/03 has been entered as Paper No. 9.

Response to Arguments

2. Applicant's arguments, see pages 9-10, lines 16-8, filed 6/17/03 with respect to claims 46 and 57 have been fully considered and are persuasive. The rejection of claims 46-64 by Menezes et al. or Menezes et al. in view of Portney has been withdrawn. However, a reference previously cited by applicant was found to read on applicant's claimed invention. This office action is of non-final status and the claims are rejected as follows:

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 46, 48-51 and 57-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunn (WO 97/12272 A1, as cited in applicant's IDS).

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Dunn discloses a single, unitary multifocal intraocular lens (page 22, lines 2-3) for use in an eye having a natural lens (page 7, lines 31-35, wherein the statement that *"It is therefore an object of this invention to provide true multifocal correction for moderate and mature presbyopes..."* clearly suggests use with the natural lens of the eye with natural lens having natural accommodative capability). The lens has a baseline optical power (zone 4; page 8, lines 21-23 and page 14, lines 23-28, wherein zone 4 being *"corrected for distance vision"* meets applicant's definition of the baseline power being "the power required for far vision for an IOL" on page 12, lines 16-17 of the specification) and a plurality of annular regions each having an optical add power (Figure 1; page 9, lines 3-15). The plurality of annular regions includes a region having a first optical add power for near vision (zone 2) having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens, enhanced vision (page 14, lines 29-36, wherein the assignment of a low add power for early to moderate presbyopia and a high add power to moderate to advanced presbyopia clearly suggests that the accommodative capability of the natural lens is being taken into account in choosing the appropriate add power to provide enhanced vision). The lens body further has a second optical add power (zone 3) intermediate between the first optical add power (zone 2) and the baseline optical add power (zone 4). With respect to claim 57, the lens body includes a region having a baseline optical power (zone 4), a region having a maximum optical add power (zone 1) and an additional optical add power (zone 2) intermediate between the maximum optical add power and the baseline optical power.

Claim 48, see Figure 1 for each of the annular regions having a different optical add power.

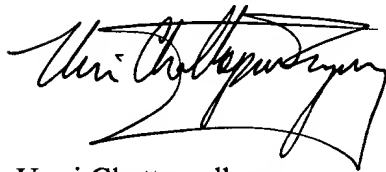
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invention to look to the teachings of Portney to modify the IOL of Dunn to include a fixation member in order to attach the IOL to the eye. Dunn is also silent to the limitations of the lens and fixation member being adapted to be placed in the anterior and posterior chambers of the eye, as required by claims 52-55 and 62-63. Portney teaches placing the lens and fixation members in these chambers in order for the lens to function as an IOL. See column 3, lines 61-64. It would have been obvious to one of ordinary skill in the art to place the lens and fixation member the anterior and posterior chambers of the eye if the lens of Dunn is to be used as an intraocular lens, as opposed to a contact lens, for example. Portney also teaches the additional limitations required by claims 56 and 64 of the lens being deformable in order to minimize the size of the incision made in the eye for the IOL insertion. See column 3, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Portney to modify the IOL of Dunn to make the lens deformable in order to minimize the size of the incision made in the eye for the IOL insertion.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

Art Unit 3738



**CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**

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July 9, 2003



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